



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

AAP/171583

PRELIMINARY RECITALS

Pursuant to a petition filed January 20, 2016, under Wis. Admin. Code §DCF 50.065, to review a decision by the Adoption Assistance in regard to Adoption Assistance Program, a hearing was held on March 16, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly determined the adoption assistance amendment request of 9/24/15.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: [REDACTED], Adoption and Consultation Section

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner adopted child CB on 12/11/13. Petitioner signed an adoption assistance agreement relating to this adoption on 12/2/13 agreeing to a monthly subsidy. The amount of the subsidy was determined using the Child and Adolescent Needs and Strengths tool (CANS). The CANS determined a number of points at that time at 17 points.

3. On 9/24/15 petitioner requested an amendment of the subsidy and an amendment visit and new CANS assessment.
4. On 10/12/15 the Department visited petitioner and conducted a new CANS assessment. The new assessment identified a total of 35 points.
5. On 10/26/15 the Department sent petitioner a request for additional verification by Confirmation of Needs (CON) forms which provide input from non-relative professionals regarding the child's emotional, behavioral, and physical care needs.
6. Following the receipt of the CON forms, the Department modified the CANS score to 28 points. The subsidy was increased based on the CANS to \$690 per month. Petitioner was notified by notice sent on 1/11/16.
7. Petitioner appealed by request dated 1/22/16.

DISCUSSION

An amendment to an Adoption Assistance grant may be available to current recipients caring for an adopted minor if certain conditions are met, as stated in Wis. Stat. § 48.975(4)(b). The eligibility criteria in this section states in the relevant part, as follows:

(2) If there has been a substantial change in circumstances and if there has been no substantiated report of abuse or neglect of the child by the adoptive parent or proposed adoptive parents, offer to increase the amount of adoption assistance for maintenance based on criteria established by the department by rule promulgated under sub. (5)(d).

Wis. Stat. § 48.975(4)(b).

In addition, a rule duly promulgated by the Department provides a similar limitation on the grant of an amendment, in the part relevant here, as follows:

(c) If having determined that there has been a substantial change in circumstances documented by uniform rate determination which establishes an increase in special needs to the moderate or intensive level in one or more categories of the supplemental payments schedule, or a new category of special needs at the minimum, moderate or intensive level and there is no substantiated report of abuse or neglect of the child by the adoptive parents, offer to amend the amount of adoption assistance for maintenance for up to one year.

**** (*ALJ's Note*: Unrelated portion pertaining to rates and points computations, omitted here.)****

Wis. Admin. Code §DCF 50.045(3)(c).

The Department put forth a logical and well-documented case supported by credible and professional witnesses. This evidence in the record demonstrates that the Department considered various sources of information and applied the program rules objectively and accurately.

Petitioner's concerns, while understandable for a parent seeking to obtain the greatest benefits for her child, lacked the specificity and the corroboration that would be required to meet her burden. Ultimately, there were no apparent errors by the Department and no material evidence that was not properly considered in arriving at the granted amendment.

CONCLUSIONS OF LAW

1. That the Department correctly considered and granted the petitioner's Adoption Assistance amendment request.
2. The petitioner failed to establish that an amendment greater than the one granted is necessary or appropriate.

THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby is, dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

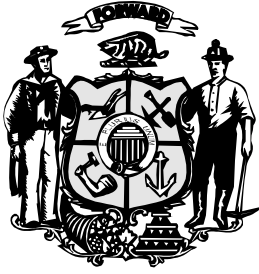
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 2nd day of June, 2016

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 2, 2016.

Adoption Assistance

Attorney [REDACTED]